



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2019-0082 FRL-9998-91-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Philadelphia County Reasonable Available Control Technology for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the City of Philadelphia, Department of Public Health, Air Management Services (AMS) for the purpose of satisfying the volatile organic compound (VOC) reasonably available control technology (RACT) requirements for source categories covered by control technique guidelines (CTGs) under the 2008 8-hour ozone national ambient air quality standard (NAAQS). The Commonwealth of Pennsylvania will address RACT for major stationary sources of VOCs and oxides of nitrogen (NO_x) for Philadelphia County in future SIP submissions. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2019-0082 at <https://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once

submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gaige, Air Quality Analysis Branch (3AD40), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5676. Ms. Gaige can also be reached via electronic mail at gaige.elizabeth@epa.gov.

SUPPLEMENTARY INFORMATION: On August 13, 2018, PADEP submitted, on behalf of the Philadelphia AMS, a SIP revision addressing the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS for Philadelphia County (the 2018 VOC CTG RACT Submission for Philadelphia County). This revision to Philadelphia County's portion of the SIP addresses the RACT requirements for sources of VOC emissions within Philadelphia covered by a CTG issued by EPA, in accord with Sections 172(c)(1), 182(b)(2)(A) and (B), and

184(b)(1)(B) of the CAA (42 U.S.C. 7502(c)(1), 7511a(b)(2)(A) and (B), and 7511c(b)(1)(B)) and the implementing regulations for the 2008 Ozone NAAQS (80 FR 12264; March 6, 2015; 40 CFR Part 51, subpart AA), in order to help Philadelphia County attain the 2008 ozone NAAQS. The SIP revision received on August 13, 2018 contained errors with respect to the Federal Register citations and approval dates for certain CTG VOC source categories in Table 1 of the submission. Other CTG VOC source categories were promulgated or otherwise revised since the 2008 Ozone RACT SIP Revision was forwarded to U.S. EPA Region 3. Table 2 of the submission could have been interpreted as including a negative declaration for EPA's 2016 Oil and Gas CTG instead of only EPA's 1983 Oil and Gas CTG. Accordingly, AMS sent, through PADEP, a clarification letter with updated versions of Tables 1 and 2 of the 2008 Ozone RACT SIP Revision to reference current citations and approval dates for all applicable CTG VOC categories. The corrected version of tables 1 and 2 were attached to a June 28, 2019 letter sent by AMS, through PADEP, to EPA. EPA received an updated submission from PADEP on July 26, 2019. Both submissions can be found in the docket.

I. Background

A. General

Ozone is formed in the atmosphere by photochemical reactions between VOCs and NO_x in the presence of sunlight. In order to reduce ozone concentrations, the CAA requires control of VOC and NO_x emission sources to achieve emission reductions in areas designated as nonattainment for ozone. Among effective control measures, RACT controls significantly reduce VOC and NO_x emissions from major stationary sources. Philadelphia County is part of the Philadelphia-Wilmington-Atlantic City ozone nonattainment area (NAA) and was designated marginal nonattainment under the 2008 8-hour ozone NAAQS. SIPs for NAAs are subject to the general

nonattainment requirements in title 1, part D, subpart 1, and the additional requirements for ozone nonattainment areas in part D, subpart 2.

RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.¹ CAA section 172(c)(1) provides that SIPs for nonattainment areas must include reasonably available control measures (RACT) for attainment of the NAAQS, including emissions reductions from existing sources through adoption of RACT. A major source in a nonattainment area is defined as any stationary source that emits or has the potential to emit NO_x or VOC emissions above a certain applicability threshold that is based on the ozone nonattainment classification of the area: Marginal, Moderate, Serious, or Severe. See definition of “major stationary source” in CAA sections 182 (c), (d) and (e), 182(f), and 302. CAA sections 182(b)(2) and 182(f)(1) require states with moderate (or worse) ozone nonattainment areas to implement RACT controls on all stationary sources and source categories covered by a CTG document issued by EPA (section 182(b)(A), (B)), and on all major stationary sources of VOC and NO_x emissions located in the area (section 182(b)(2)(C) and 182(f)(1)).² EPA’s CTGs establish presumptive RACT control requirements for various VOC source categories. The CTGs typically identify a particular control level that EPA recommends as being RACT. In some cases, EPA has issued Alternative Control Techniques guidelines (ACTs), primarily for NO_x source categories, which in contrast to the CTGs, only present a range for possible control options but do not identify any particular option as the presumptive norm for what is RACT.

¹ See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, “Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas.” See also 44 FR 53761, 53762 (September 17, 1979).

² As stated in this rulemaking action, this SIP is only addressing sources subject to CTGs issued by EPA and is not addressing major sources of VOC or NO_x that are not subject to CTGs.

CAA section 183(c) requires EPA to revise and update CTGs and ACTs as the Administrator determines necessary. EPA issued 11 new CTGs from 2006 through 2008 for a total of 44 CTGs issued since November 1990. States with ozone nonattainment areas are required to implement RACT for the source categories covered by CTGs through the SIP. Source categories that are not covered by the CTGs are termed non-CTG sources. The non-CTG sources in Philadelphia County are not covered by this SIP revision.

In addition to the requirements of section 182, CAA section 184(a) established a single ozone transport region (OTR), comprising all or part of 12 eastern states and the District of Columbia, and required that additional measures be taken in OTR states to reduce ozone. The entire Commonwealth of Pennsylvania, including Philadelphia County, is part of the OTR and, therefore, must also comply with the additional RACT requirements in CAA section 184(b)(1)(B) and (2). Only section 184(b)(1)(B) is relevant to this particular SIP revision because it requires the implementation of RACT in OTR states for all sources of VOC covered by a CTG, regardless of whether the VOC source is in a nonattainment area.³ Because the Philadelphia-Wilmington-Atlantic City Area is designated as marginal nonattainment, the requirement to adopt RACT on all sources covered by a CTG would not apply in Philadelphia County without the additional OTR requirement in section 184(b)(1)(B).

B. Philadelphia County, Pennsylvania's Ozone RACT History

Philadelphia County, Pennsylvania has been subject to the CAA RACT requirements because of previous ozone nonattainment designations. The Philadelphia-Wilmington-Atlantic City Area

³ Section 184(b)(2) requires that major sources of VOC and NO_x in attainment areas in OTR states also comply with the requirements of section 182(b)(2) for moderate nonattainment areas. This SIP revision only addresses VOC sources subject to CTGs in Philadelphia County, so the section 184(b)(2) requirements are not discussed in the proposal.

(which includes Philadelphia County) was designated as a severe 1-hour ozone NAA.

Philadelphia County has implemented numerous RACT controls throughout the County to meet the CAA's RACT requirements under the 1-hour ozone standard.

Under the 1997 8-hour ozone NAAQS, the Philadelphia-Wilmington-Atlantic City Area (which includes Philadelphia County) was designated as a moderate nonattainment area. See 69 FR 23858, 23931 (April 30, 2004). As a result, Philadelphia County continued to be subject to the CAA RACT requirements. Philadelphia County revised and promulgated its RACT regulations and demonstrated that it complied with the 1997 CAA RACT requirements in a SIP revision approved by EPA on June 15, 2016 (81 FR 38992).

Under CAA section 109(d), EPA is required to periodically review and promulgate, as necessary, revisions to the NAAQS to continue to protect human health and the environment. On March 27, 2008, EPA revised the 1997 8-hour ozone standard by lowering the 8-hour standard to 0.075 parts per million (ppm) level (73 FR 16436). On May 21, 2012, EPA finalized attainment/nonattainment designations for the 2008 8-hour ozone NAAQS (77 FR 30087).

Under the 2008 8-hour ozone standard, EPA designated Philadelphia County, which remained part of the larger Philadelphia-Wilmington-Atlantic City Area, as marginal nonattainment.

However, the entire Commonwealth of Pennsylvania is in the OTR, so pursuant to CAA section 184(b)(1)(B), it is required to address certain CAA RACT requirements by submitting to EPA a SIP revision demonstrating that it implements RACT on all VOC sources in Pennsylvania covered by a CTG.⁴

⁴ Because this SIP revision only addresses RACT for sources covered by CTGs in Philadelphia County, the other requirements applicable to major NO_x or VOC sources in OTR states will not be discussed.

C. EPA Guidance and Requirements

EPA has provided more substantive RACT requirements through final implementation rules for each ozone NAAQS, as well as guidance. On March 6, 2015, EPA issued its final rule for implementing the 2008 8-hour ozone NAAQS (the 2008 Ozone Implementation Rule). See 80 FR 12264. This rule addressed, among other things, control and planning obligations as they apply to nonattainment areas under the 2008 8-hour ozone NAAQS, including RACT and RACM. In this rule, EPA specifically required that states meet the RACT requirements either (1) through a certification that previously adopted RACT controls in their SIP revisions approved by EPA under a prior ozone NAAQS continue to represent adequate RACT control levels for attainment of the 2008 8-hour ozone NAAQS, or (2) through the adoption of new or more stringent regulations or controls that represent RACT control levels. A certification must be accompanied by appropriate supporting information such as consideration of information received during the public comment period and consideration of new data. Adoption of new RACT regulations will occur when states have new stationary sources not covered by existing RACT regulations, or when new data or technical information indicates that a previously adopted RACT measure does not represent a newly available RACT control level. Additionally, states are required to submit a negative declaration if there are no sources in the nonattainment area covered by a specific CTG source category.

II. Summary of SIP Revision

On August 13, 2018, PADEP submitted a SIP revision for Philadelphia County to address the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS (the 2018 VOC CTG RACT Submission for Philadelphia County). Specifically, Pennsylvania's 2018

VOC CTG RACT Submission for Philadelphia County includes: (1) a certification that for certain categories of sources, previously-adopted VOC RACT controls in the Philadelphia County portion of Pennsylvania's SIP that were approved by EPA under the 1979 1-hour and 1997 8-hour ozone NAAQS continue to be based on the currently available technically and economically feasible controls, and continue to represent RACT for implementation of the 2008 8-hour ozone NAAQS; and (2) a negative declaration that certain CTG sources of VOC do not exist in Philadelphia County, PA. This SIP revision does not cover non-CTG sources in Philadelphia County.

Philadelphia County's Regulations, under Philadelphia County AMR V Sections II, III, IV, V, XI, XII, XIII, XV, XVI, and 25 Pa. Code Sections 129.52, 129.52a, 129.52b, 129.52d, 129.52e, 129.55, 129.56, 129.57, 129.58, 129.59, 129.60, 129.62, 129.63, 129.63a, 129.64, 129.67, 129.67a, 129.67b, 129.68, 129.69, 129.71, 129.73, 129.74, 129.77, 129.101-129.107, and 130.701-130.704, contain the VOC CTG RACT controls that were implemented and approved into Pennsylvania's SIP under the 1-hour and 1997 8-hour ozone NAAQS. Pennsylvania is certifying that these regulations, all previously approved by EPA into the SIP, continue to meet the RACT requirements for the 2008 8-hour ozone NAAQS for CTG-covered sources of VOCs in Philadelphia County, PA. PADEP also submitted a negative declaration for the CTGs that have not been adopted due to no affected facilities in Philadelphia County. More detailed information on these provisions as well as a detailed summary of EPA's review can be found in the Technical Support Document (TSD) for this action which is available on line at www.regulations.gov, Docket number EPA-R03-OAR-2019-0082.

III. Proposed Action

EPA has reviewed Pennsylvania's 2018 VOC CTG RACT Submission for Philadelphia County and is proposing to approve Pennsylvania's SIP revision to the Philadelphia County portion of the SIP on the basis that Philadelphia County, PA has met the VOC RACT requirements for all sources covered by VOC CTGs as set forth by CAA sections 182(b) and 184(b)(2). EPA is proposing to find that Pennsylvania's SIP revision satisfies the 2008 8-hour ozone NAAQS RACT requirements for sources covered by CTGs issued prior to July 20, 2014 in Philadelphia County, PA through (1) certification that previously adopted RACT controls in the Philadelphia County portion of the Pennsylvania SIP that were approved by EPA under the 1979 1-hour ozone and 1997 8-hour ozone NAAQS continue to be based on the currently available technically and economically feasible controls, and that they continue to represent RACT; and (2) a negative declaration demonstrating that no facilities exist in Philadelphia County for certain CTG categories.

EPA is proposing to find that Pennsylvania's 2018 VOC CTG RACT Submission for Philadelphia County demonstrates that Philadelphia County has adopted air pollution control strategies that represent RACT for the purposes of compliance with the 2008 8-hour ozone standard for all stationary sources of VOCs covered by a CTG issued prior to July 20, 2014. EPA is soliciting public comments on the issues discussed in this document relevant to VOC CTG RACT requirements for the Philadelphia County portion of the Pennsylvania SIP for the 2008 ozone NAAQS. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR

52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, Pennsylvania's 2018 VOC CTG RACT Submission for Philadelphia County, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq

Dated: August 16, 2019.

Diana Esher,
Acting Regional Administrator,
Region III.

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